Supreme Court, U.S.
FILED
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No. _____

In The

Supreme Court of the United States

October Term, 1997

LAMON L. MOODY, JR.,

Petitioner,

versus

EVES THIBODEAUX MOODY,

Respondent.

On Petition For Writ Of Certiorari
To The Supreme Court Of The State Of Louisiana

PETITION FOR WRIT OF CERTIORARI

LAMON L. MOODY, JR.
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34 pp

QUESTION PRESENTED

Is it a citizen's constitutional right to bring pleadings, and expect rulings, on his constitutional rights of equal treatment, equal protection, and equal rights before state courts?

PARTIES

The parties in this Court and the courts below are as follows:

Petitioner: Lamon L. Moody, Jr., who was defendant in the nineteenth judicial court, appellant in the first circuit court of appeal, and appellant in the state supreme court.

Respondent: Eves Thibodeaux Moody, who was plaintiff in the nineteenth judicial court, appellee in the first circuit court of appeal, and plaintiff-appellee in the state supreme court.

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PETITION FOR WRIT OF CERTIORARI

The petitioner urges that this Court issue a writ of certiorari to review the judgment of the Supreme Court of the State of Louisiana. That judgment denied petitioner's assertions of several counts of violations of Constitutionally guaranteed rights of equal protection of the law to Citizens and taxpayers of the United States; and by such denial refused to address or comment on specific charges of violations of the Constitution and federal laws.

OPINIONS BELOW

The July 2, 1998 judgment of The Supreme Court Of The State Of Louisiana, denying petitioner's application for writ, is reported at Number 98-C-1422 and is reprinted at Appendix A to this petition, p. App. 1. The April 29, 1998 judgment of the Louisiana State First Circuit Court of Appeal, denying petitioner's application for rehearing, is reported at their Docket Number 97/CA/0046 and is reprinted at Appendix B to this petition, p. App. 2. The February 20, 1998 judgment of the Louisiana State First Circuit Court of Appeal which did not address any of the constitutional questions of the appeal by Lamon L. Moody, Jr., is reported at their docket number 97/CA/0046 and is reprinted at Appendix C to this petition, p. App. 3. The judgment rendered in open court on August 26, 1996, signed on August 28, 1996, is the judgment of the Nineteenth Judicial District Civil Court of East Baton Rouge, State of Louisiana under their

docket number 337,624 and is reprinted at Appendix D to this petition, p. App. 5.

JURISDICTION

The judgment of The Supreme Court Of The State Of Louisiana, the state court of last resort, was entered on July 2, 1998, and this Court has jurisdiction under their rules. The petitioner seeks review of the denial by The Supreme Court Of The State Of Louisiana because they did not address any of the stated specific issues in violation of the Constitutionally guaranteed rights, and Federal Laws, of the distribution of funds in the pension and retirement fund of the petitioner. The issue presented herein is a question of equal protection, equal rights, and equal justice guaranteed all Citizens under the Constitution.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The following constitutional and statutory provisions are involved.

United States Constitution

U.S. Constitution, First Amendment (1791):

Congress shall make no law . . . abridging the freedom of speech,. . . . or the right of the people . . . to petition the government for a redress of grievances.

U.S. Constitution, Ninth Amendment (1791):

The enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people.

U.S. Constitution, Fourteenth Amendment (1868):

. . . No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny any person . . . the equal protection of the law.

Federal Law

Employee Retirement Income Security Act of 1974 (ERISA)

Retirement Equity Act of 1986 (REA)

29 United States Code Annotated – Section 1056(d)

STATEMENT OF THE CASE

This case comes following a suspensive appeal by Lamon L. Moody, Jr., Petitioner, from a judgment of the Nineteenth Judicial District Civil Court for East Baton Rouge Parish, Louisiana in the matter numbered 337,624 of Division "A", which judgment was signed August 28, 1996. The suspensive appeal was filed on February 18, 1997 with the Louisiana First Circuit Court of Appeal, with docket number 97/CA/0046.

The record shows that Eves Thibodeaux Moody, Respondent, filed a petition for legal separation on October 27, 1986 from Lamon L. Moody, Jr. which resulted in a judgment of separation rendered by the Family Court (separate court) for East Baton Rouge Parish, Louisiana, in docket number 77,884 of Division "A" of that court.

Eves Thibodeaux Moody filed a suit for partitioning of community property under docket number 337,624, Division "A" of the trial Civil Court. A final judgment was rendered by the trial Civil Court on January 9, 1992. Lamon L. Moody, Jr. took a suspensive appeal to the Louisiana First Circuit Court of Appeal and was granted considerable monetary relief. The appellate court also remanded directing the trial Civil Court to reallocate assets and liabilities in accordance with the amended awards mandated by the appellate court.

On July 21, 1994 the trial Civil Court signed a new final judgment, which included the original Domestic Relations Order (DRO) relative to the distribution of Petitioner Lamon Moody's, pension and retirement fund with the New Dyer & Moody, Inc. Retirement Plan and Trust ("Plan"), his company's Group Pension Plan, held in trust by Hancock Bank in Baton Rouge. The trial Civil Court judge originally granted 83.9911 percent of the total pension trust dollar amount to Respondent Eves Thibodeaux Moody, and 16.0089 percent to Petitioner Lamon L. Moody, Jr., the Participant in the Plan. Louisiana State law requires that each spouse receive equal shares in the division of community assets. Mr. Moody took another suspensive appeal to the appellant court and was granted additional relief by their judgment rendered on October 6, 1995 which amended the trial Civil Court's judgment

and affirmed, as amended, but it did not change the Pension Plan allocation of the judge's DRO to the two former spouses as stipulated above.

On October 20, 1995 Mr. Moody filed for a Rehearing of the First Circuit Court of Appeal's judgment of October 6, 1995. It was denied on December 12, 1996. On January 12, 1996, Lamon L. Moody, Jr. filed an application for a Writ of Certiorari Or Review to the Supreme Court of the State of Louisiana. The State Supreme Court denied the Writ on March 8, 1996 without comment.

Petitioner Lamon L. Moody, Jr. filed civil Action Number 96-344-V-1 as an Appeal to the United States District Court, Middle District of Louisiana, on April 12, 1996. On October 22, 1996 the U.S. District Court ruled that Mr. Moody's "recourse is to the United States Supreme Court".

Mrs. Moody filed a suit for a Writ of Mandamus in the trial Civil Court to force the Administrator Committee of Mr. Moody's Pension Plan to find the trial judge's Domestic Relations Order to be a "Qualified" Domestic Relations Order. During this trial, the trial Civil Court judge threatened the Pension Plan Administrator Committee, and their lawyer, with immediate imprisonment if they did not go outside his court room and return before the end of the work day and report that they had found his DRO to be a "QUALIFIED DOMESTIC RELATIONS ORDER". The Administrator Committee complied with the judge's order and reported to him that under duress and threat of imprisonment they had found his DRO to be a "QUALIFIED DOMESTIC RELATIONS ORDER".

As the record shows, from the date of the first judgment by the Civil court judge in 1992 neither Eves Thibodeaux Moody, nor any of her lawyers, nor anybody else, ever requested a determination by the Administrator of the Plan that the trial Civil Court judge's Domestic Relations Order was a "QUALIFIED DOMESTIC RELATIONS ORDER", nor was a request ever made for a distribution of the Pension Fund of Lamon L. Moody, Jr. to Eves Thibodeaux Moody, as required by ERISA, and the Pension Plan and Trust contract between Mr. Moody's Consulting Engineering Company, Dyer & Moody, Inc. and the Trustee, Hancock Bank of Baton Rouge. Due to this fact neither Lamon L. Moody, Jr. as the Participant in the Pension Plan, nor the Administrator ever had the chance or opportunity to make their position known as to the "QUALIFIED" status of the Civil Court judge's Domestic Relations Order – except for the Civil Court judge's judgment of August 28, 1998 where his threats of imprisonment took the decision out of the hands of the only people authorized under the Federal Law to make the decisions.

Lamon L. Moody, Jr. filed another suspensive appeal to the Louisiana First Circuit Court of Appeal on February 18, 1997, their docket number 97/CA/0046; and their judgment was rendered on February 20, 1998 and is reprinted at Appendix C to this petition, p. App. 3. It is noted that the First Circuit Court of Appeal ignored and did not address any of the constitutional questions stated in this appeal. Mr. Moody then timely filed a petition to the First Circuit Court of Appeal for a Rehearing, and this was denied by their judgment dated April 29, 1998 which is reprinted at Appendix B to this petition, p. App. 2.

On May 28, 1998 Lamon L. Moody, Jr. filed an application for a Writ of Certiorari or Review to the Supreme Court Of The State Of Louisiana under their docket number 98C1422; and it was denied by their judgment dated July ?, 1998 which is reprinted at Appendix A to this petition, p. App. 1.

REASONS FOR GRANTING THE WRIT

1. DURING APPROXIMATELY TWELVE YEARS OF THIS LITIGATION IN LOUISIANA STATE COURTS NONE OF THE COURTS RULED ON ANY OF THE CONSTITUTIONAL RIGHTS OF THE PETITIONER AS SET FORTH IN PLEADINGS TO THE COURTS.

The judgment signed by the trial court on August 28, 1996 claims that the court's Domestic Relations Order ("DRO") is a "Qualified" Domestic Relations Order ("QDRO"). This opinion of the trial judge infers that his DRO, in his allocation of community assets meets all requirements of the Federal Law, including regulations, definitions and procedures of the Federal Law, and in particular, the Employee Retirement Income Security Act of 1974 (ERISA), as amended by the Retirement Equity Act of 1986 (REA); which Act also added Internal Revenue Service Code 414(p) and 29 U.S.C.A. 1056(d) that established the administrative requirements of a QDRO. The New Dyer & Moody, Inc. Profit Sharing Plan and Trust ("Plan") is an approved pension or retirement plan which was in effect about thirty years. In accordance with the above stated Federal Acts, the Plants "Sponsor" is the Owner, Dyer & Moody, Inc. Consulting Engineers; and

the "Administrator" was a three Member Committee of Employees of the Owner: Mrs. Floye Harbour, Mr. H. H. Forrester, Jr. and Mr. Lamon L. Moody, Jr. Mr. Moody has retired and Dyer & Moody, Inc. has ceased operations, and the Plan was terminated as approved for termination by the U.S. Internal Revenue Service in November, 1994. By March, 1995, all former Employee/Participant Members of the Plan had received their distribution of assets in the Plan except for Lamon L. Moody, Jr., and his assets in the Plan, as well as all other Community assets, have been frozen by a court order procured by his former spouse in October, 1986. Therefore, Mr. Moody is the single remaining Participant in the Plan (which is still under the rules and regulations of the IRS and the United States Department of Labor until all monies in the Trust Fund are distributed).

As required by ERISA, REA, and the Plan, all assets of an Employee's retirement account shall not be transferred to an ex-spouse or other "Alternate Payee" until the DRO has been determined to be "Qualified" as a QDRO by the Administrator of the Plan.

Paragraph (d)(3)(G) of 29 U.S.C.A., of Section 1056 provides the procedure for the determination of whether or not a DRO meets all the requirements of a QDRO, and states: "In the case of any domestic relations order **received by the plan** (I) the plan administrator shall promptly notify the participant and each alternate payee of the receipt of such order and the plan's procedures for determining the qualified status of domestic relations orders, and . . . ".

Until the Mandamus action of the trial court, neither Eves Thibodeaux Moody, her lawyers, nor any other person provided the DRO to the Administrator, or any one of the three Members of the Administrator Committee; and neither she, her lawyers, nor any other person made any verbal nor written request to the Administrator of the Plan to qualify the DRO. Instead of complying with the requirements and procedures of ERISA, REA, and the Plan to contact the Administrator, Mrs. Moody, and her lawyers, tried to totally and completely circumvent the Law and legal requirements by trying to use harassment and coercion against the Hancock Bank, which is only the "Trustee" of the Trust for the Plan, to force the Bank to break the Federal Law and violate the legal requirements of the Plan, and make unauthorized and unlawful payments out of the proceeds of the Participant Retirement Account of Lamon L. Moody, Jr. To this end Mrs. Moody's lawyer made personal visits to the officers of Hancock Bank, and wrote threatening letters to them as far back as 1994, and as late as July 3, 1996, as the record of the case shows.

It is totally irresponsible to try to circumvent the Federal and State Law and resort to these tactics when Mrs. Moody's lawyer knew, or should have known, and obeyed and followed the prescribed legal and lawful procedure.

It is respectfully submitted that this Honorable Court should find Eves Thibodeaux Moody, and her lawyers, guilty of denying Lamon L. Moody, Jr. equal treatment, equal protection, and equal rights under the law of the land due to the attempted forcible acts used by Mrs. Moody and her lawyers to force Lamon L. Moody, Jr. to

perform unlawful acts in declaring the trial court's DRO to be a QDRO outside of the legal and lawful requirements of the law, and the contract requirements of the Plan; and to find the trial court, the state appellate court, and the state supreme court in error for not addressing the violations of constitutional rights of Petitioner Lamon L. Moody, Jr.

2. DISTRICT COURT HEARING ON AN ORDER OF A WRIT OF MANDAMUS HELD ON AUGUST 26, 1996 TO FURTHER DEPRIVE THE PETITIONER OF HIS CONSTITUTIONAL RIGHTS UNDER THE LAW.

The judgment signed by the trial judge on August 28, 1996 denied the Petitioner, Lamon L. Moody, Jr. his Constitutionally guaranteed equal rights, equal treatment, equal protection and equal justice under the law. He was ordered into court by a premature and improper procedure in a deliberate attempt by his ex-spouse, and her lawyers, to circumvent the Federal Laws that provide specific procedures that are intended to protect individual rights of a Participant, as well as an Alternate Payee, in a DRO community property division. Mr. Moody was denied all of his rights by the action of the trial judge BEFORE ANY TESTIMONY OR ANY OPPORTUNITY TO SUBMIT EVIDENCE AT THE COURT HEARING ON THE JUDGE'S ORDER OF A WRIT OF MANDAMUS. As the court transcript of the hearing held on August 26, 1996 partially relates, the trial judge cut out any hopes of a fair and impartial court hearing at the very outset by his outburst directed at three innocent Christian citizens,

and their lawyer, standing before him: Mrs. Floye Harbour, Mr. H. H. Forrester, Jr. and Lamon L. Moody, Jr. were shocked and horrified beyond description as the trial judge boisterously threatened to put all three, and their lawyer in prison **"before the close of business today", if they did not go outside his courtroom and return with a determination that his DRO was a "Qualified Domestic Relations Order"** – even though the Federal Law gave them eighteen months to do so after having been requested to make such a determination!

By this error, **the trial judge also prohibited the Petitioner from exercising his right** to give his input to the hearing and make his case to the other two Members of the Administrator Committee as to his pleadings and contentions that the trial judge's DRO **is or is not a QDRO as required in ERISA, or other Federal Law, and the Plan.**

Through these errors of the trial judge, which, on appeal, were never ruled on by the state appellate court nor the state supreme court, the Petitioner, Lamon L. Moody, Jr., was denied and refused his Constitutionally guaranteed rights of equal treatment under the law, equal protection under the law, equal justice under the law, and equal rights under the law.

Was this unforgiving and coercive treatment by a judge in a court of law the kind of treatment citizens should expect in this country? – and have such display sanctioned by appellate courts and supreme courts? It is submitted to this Honorable Court that this Petitioner as a Patriot who left part of his flesh, bone and blood on a field of battle fighting the enemy of his God, Family and

Country during World War II to preserve and protect this Nation did not expect to be treated so badly, nor expect his Christian friends to be so treated.

3. ERRORS CONTAINED IN TRIAL COURT JUDGMENT NOT CORRECTED BY THAT COURT, NOR APPELLATE COURT, NOR BY STATE SUPREME COURT EVEN WHEN PETITIONER INCLUDES THEM IN BRIEF FOR APPEAL.

The judgment signed by the trial judge on August 28, 1996 is in error because the second paragraph of the judgment states: "When after reading the pleadings, considering the documents and attachments made a part thereof, together with the entire record of these proceedings and particularly the opinion of the Appeal, First Circuit, **dated November 10, 1995,** which is now a final judgment; . . . ". There is no such opinion, **dated November 10, 1995,** in the record of this case, as verified with the Clerk of Court's office at the First Circuit Court of Appeal.

During their review of the record did the first circuit court find such a judgment? If so, they should have so advised the Petitioner because it could have had serious consequences on his appeal. If there is such a judgment, it is in the public domain and therefore available to the public, including the Petitioner. If such a judgment is in existence it could have been taken into consideration both, by the trial court and the first circuit court of appeal, without Lamon L. Moody, Jr. knowing anything about the content. Also, if such a judgment was available to Eves Thibodeaux Moody, and not available to Lamon

L. Moody, Jr., it is submitted to this Honorable Court that the Constitutional guarantees of equal treatment, equal rights, and equal justice under the law, of Lamon L. Moody, Jr., have been denied.

4. THE TRIAL JUDGE MADE ANOTHER ERROR, AT THE EXPENSE OF THE PETITIONER'S CONSTITUTIONAL RIGHTS, WHERE, IN HIS JUDGMENT DATED AUGUST 28, 1996, HE CLAIMS HIS DRO IS A QUALIFIED DOMESTIC RELATIONS ORDER.

The ERISA law requires that the Administrator shall make the determination of whether a DRO is a "Qualified Domestic Relations Order" or not, and allows up to eighteen months for the Administrator to make such a determination. The Petitioner, as the Participant in the Plan, was never allowed to present his comments nor position, nor exercise any of his constitutional rights concerning the trial judge's DRO being "Qualified" or not because Eves Thibodeaux Moody, nor her lawyers, ever requested the Administrator of the Plan to make such a declaration. No evidence, no testimony, no documents, no law (state nor federal), was ever presented in this case to form the basis of such an "opinion" of the trial judge.

The trial judge was also made aware of the federal laws, and the contractual conditions of the Plan and Trust, but still used the improper device of the mandamus to force the Petitioner and the Administrator Committee into court; and then coerce and mandate them into making an illegal and unlawful determination that his DRO is a QDRO, all within a few hours, by his threats

of imprisonment, if his mandates were not carried out "before the end of the workday".

The transcript of the August 26, 1996 hearing in this case shows that the Administrative Committee complied with the mandates of the trial judge within a couple of hours, and so reported that the decision was made under duress and threat of imprisonment. Lamon L. Moody, Jr., The Administrative Committee, and the Plan Sponsor were consequently placed in a court mandated position of violating the federal law. This action of the trial judge also deprived the Participant, the Administrator Committee and the Plan Sponsor of any and all rights and privileges they had, as well as relieving them of their responsibilities and legal obligations to abide by, and carry out their duties in accordance with the legal requirements of the Federal Law and Regulations, and the contractual terms and conditions of the Plan.

Apparently, the trial judge was aware of the requirements of ERISA, REA, and other Federal Laws, and the contractual terms of the Plan, that allows the Administrator Committee up to eighteen months (not two hours) within which to make a determination of whether or not his DRO is legally and lawfully a QDRO; **with such timing to start from the time that the Alternate Payee, Eves Thibodeaux Moody, presented a request of the Administrator Committee to make a determination that the trial judge's DRO is an acceptable QDRO,** and that he was violating such Federal Laws. The Federal Laws and the Plan provide equal treatment for both former spouses, in the case of division of community assets, in that if either the Participant or the Alternate Payee do not agree with the decision of the Administrator, concerning

a DRO being a QDRO, or other related matters, either party has ultimate access to the courts to resolve the matter.

It is also apparent that the Louisiana first circuit court of appeal and the state supreme court, by their judgments, agree with all the trial court's violations of the constitutional rights of the Petitioner. It is requested that this Honorable Court rule on this matter and confirm that it has resulted in denying the Petitioner, Lamon L. Moody, Jr., equal treatment, equal rights and equal justice under the law as guaranteed all citizens by the Constitution of the United States of America.

5. THE TRIAL JUDGE ERRED IN STATING THAT THE MANDAMUS ACTION AGAINST PETITIONER LAMON L. MOODY, JR. WAS NECESSARY BECAUSE THERE WAS "NO OTHER REMEDY AVAILABLE TO DECLARE HIS DRO A 'QUALIFIED DOMESTIC RELATIONS ORDER.' "

The judgment signed by the trial judge on August 28, 1996 stating that there was: **"no other remedy available,"** is not true because the Federal Laws specifically provide protective remedies to the Participant and the Alternate Payee throughout the required procedure for the Administrator to determine if the DRO is a QDRO, or not; and provides access to courts if either party does not agree with the decision of the Administrator. **Unfortunately, due to the action of the trial judge in this instance, all of these remedies and rights were cancelled and voided.**

The record of this case shows that rather than Respondent Eves Thibodeaux Moody simply requesting

the Administrator Committee to make a determination that the Trial judge's DRO, is "Qualified", her lawyer went direct to the "Trustee" and harassed and tried to coerce Hancock Bank into making illegal payments from the Participant Account of Lamon L. Moody, Jr., by writing threatening letters to Hancock over the last several years when the Respondent and her lawyer knew that Hancock Bank is "only" the "Trustee" of the Plan, and, in accordance with the ERISA, and other Federal Laws, and the terms and conditions of the Plan, the Trustee shall receive their instructions from only **the Administrator of the Plan after he has been requested by the Alternate Payee to make a determination that the Trial judge's DRO is, or is not, "Qualified", and has indeed made such an affirmative determination.**

Petitioner Lamon L. Moody, Jr.'s constitutional rights were further violated by the lawyer for Eves Thibodeaux Moody filing a Petition for Garnishment against Hancock Bank to force them to unlawfully confiscate the assets of Participant Lamon L. Moody, Jr. in direct contradiction to the ERISA and REA Laws forbidding such procedure.

All these illegal maneuvers over the years by the lawyers for Respondent Eves Thibodeaux Moody have been extremely costly to Petitioner Lamon L. Moody, Jr. and have resulted in retarding any progress, and have drug out for years the ultimate division of community assets of Mr. and Mrs. Moody, all at the expense of Mr. Moody's constitutional rights of equal protection, equal rights and equal justice under the Constitution and Laws of the United States of America.

6. PETITIONER NOT ALLOWED TO ACT IN HIS OWN DEFENSE IN TRIAL COURT HEARING ON AUGUST 26, 1996 AFTER HAVING BEEN ORDERED INTO COURT "PRO SE".

The trial court judge denied Petitioner Lamon L. Moody, Jr. his constitutional rights when he ruled that the: "Writ of Mandamus is hereby ordered and directed to transfer all funds held by Hancock Bank either in its corporate capacity or "Trustee", because all funds held by Hancock Bank, including some individual checking accounts in the name of Lamon L. Moody, Jr. were not allowed to be discussed, nor testified to, nor evidence offered into the record of the trial court hearing, due to the action of the trial judge at the very outset of the "hearing" and throughout the "hearing".

Since he was not allowed to address the judge, Petitioner Lamon L. Moody, Jr. was not able to present evidence nor testify to the distribution of the monies in his Participant Account that were held by Trustee, Hancock Bank, nor the distribution of earnings thereon, nor was he allowed to question the lawyer for Hancock Bank about the handling of the checking accounts that were part of the court ordered freeze on all community assets that had been in effect about ten years at the time of the "hearing".

The Petitioner, Lamon L. Moody, Jr., was again denied his constitutional rights of equal protection, equal treatment, and equal justice under the guarantees of the Constitution of the United States of America.

7. JUDGES' ORDERS THAT PETITIONER LAMON L. MOODY, JR. PAY ALL COSTS OF PROCEEDINGS IS DENYING THE CONSTITUTIONAL RIGHTS OF EQUAL TREATMENT AND EQUAL PROTECTION OF THE PETITIONER.

The judgment signed by the trial judge on August 28, 1996 further denied Petitioner Lamon L. Moody, Jr. his Constitutional guaranteed equal rights, equal treatment and equal protection being ordered to personally and individually pay "all cost of these proceedings".

Mr. Moody, individually, and Pro Se, and the Sponsor of the Plan, and as a Member of the Administrator Committee; and the Administrator Committee were ordered into court by an invalid, premature and improper summary procedure filed by the lawyer for the Respondent. The Respondent, Eves Thibodeaux Moody, and her lawyer, had not complied with nor obeyed the Federal Law under the Employee Retirement Income Security Act of 1974 (ERISA), nor other Federal Laws, nor the specific provisions of the Plan, which establishes the lawful procedure for handling the Domestic Relations Order referred to in the judgment signed by the trial judge on August 28, 1996.

Also, Eves Thibodeaux Moody, and her lawyer, endeavored to force payment of monies in the name of Participant Lamon L. Moody, Jr. by this, and other acts of harassment and coercion, before the court appeals, including suspensive appeals, had ended, and before they requested, as required by the above stated Federal Laws and the procedures, that the Administrator Committee of

the Plan make a determination whether the subject DRO is, or is not, a "Qualified" DRO.

Through these harassing and coercive actions of Eves Thibodeaux Moody, and her lawyer, they have brought a great deal of pain and suffering, and extreme expense to Lamon L. Moody, Jr. They have drawn out these court procedures and litigations over about twelve years at this time and it has cost the Petitioner Lamon L. Moody, Jr. over $140,000.00 just for his lawyer and court charges during this time. Because of this tremendous expense, and the resulting depletion of funds it has been necessary that the Petitioner defend himself "PRO SE"; making it necessary for him to spend innumerable hours researching law books in the University and public libraries during the last three years or so.

If it is left to stand by this Honorable Court that the Petitioner must pay all the expenses of the trial court and the appellate court proceedings it will result in serious injustice being done to Lamon L. Moody, Jr., by denying and negating his guaranteed rights of equal treatment, equal protection, and equal justice under the law of the land, and all such Satanic treatment must be laid at the feet of the lawyers for Eves Thibodeaux Moody who prefer to bleed the public rather than take a simple pathway to justice and obey the Federal Law.

It is therefore respectfully requested that this Honorable Court reverse the orders of both, the trial and appellate courts, taxing Petitioner Lamon L. Moody, Jr. for all costs of these proceedings, and order Eves Thibodeaux

Moody, and her lawyer, to pay all costs, including lawyer's fees, and any sanctions this Honorable Court feels will reflect justice in this long, drawn out litigation.

CONCLUSION

Considering the law and the evidence adduced at trial on merits; the arguments set forth in the Petitioner's appeal to the Louisiana First Circuit Court of Appeal; and the arguments set forth in the Application for Writ of Certiorari to The Supreme Court Of The State Of Louisiana, it is respectfully submitted that this Honorable Court should exercise its discretion, hear this case, and fully restore the Constitutional rights of this Petitioner as guaranteed by the Constitution of these United States of America. For the foregoing reasons, and on the basis of the authorities cited, the petition for Writ of Certiorari should be granted.

Respectfully submitted,

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APPENDIX A

The Supreme Court of the State of Louisiana

EVES THIBODEAUX MOODY NO. 98-C-1422

VS.

LAMON L. MOODY, JR.

IN RE: Moody, Lamon L. Jr.; – Defendant(s); Applying for Supervisory and/or Remedial Writ; Parish of East Baton Rouge 19th Judicial District Court Div. "A" Number 337,624; to the Court of Appeal, First Circuit, Number CA97 0046

July 2, 1998

Denied.

JTK
PFC
WFM
HTL
CDK
JPV
CDT

JOHNSON, J. not on panel.

Supreme Court of Louisiana
July 2, 1998

/s/ John Tarlton Olivier
Clerk of Court
For the Court

APPENDIX B

NOT DESIGNATED
FOR PUBLICATION

COURT OF APPEAL, FIRST CIRCUIT
STATE OF LOUISIANA

RE: Docket Number 97/CA/0046

EVES THIBODEAUX MOODY

--VERSUS--

LAMON L. MOODY, JR.

Parish of
East Baton Rouge

On application for Rehearing.

Rehearing DENIED

/s/ Frank Foil
Frank Foil
/s/ Vanessa Guidry-Whipple
Vanessa Guidry-Whipple
/s/ James E. Kuhn
James E. Kuhn

APR 29 1998

Filed /s/ ~~Stanley P. Lemoine~~

/s/ Stanley P. Lemoine
STANLEY P. LEMOINE, Clerk

APPENDIX C

(NOT DESIGNATED FOR PUBLICATION)

STATE OF LOUISIANA
COURT OF APPEAL
FIRST CIRCUIT
NO. 97 CA 0046
EVES THIBODEAUX MOODY
VERSUS
LAMON L. MOODY, JR.

JUDGMENT RENDERED ON FEBRUARY 20, 1998

Appealed from the
Nineteenth Judicial District Court
in and for the Parish of East Baton Rouge,
State of Louisiana

Trial Court No. 337,624

Honorable Bob Downing, Judge

Robert L. Kleinpeter Baton Rouge, LA	Attorney for Plaintiff Appellee Eves Thibodeaux Moody
Lamon[ ] L. Moody, Jr. Baker, LA	Appellant Pro Se
Gregory A. Pletsch Baton Rouge, LA	Attorney for Defendant Hancock Bank of Louisiana

BEFORE: FOIL, WHIPPLE AND KUHN, JJ.

/s/ RLK

/s/ LLM

/s/ GAP

FOIL, JUDGE.

Lamon Moody, Jr., in a pro se application, appeals the trial court's action in granting a writ of mandamus ordering Hancock Bank to transfer funds from a retirement account to his former spouse. The retirement account was allocated in full ownership to his former spouse pursuant to a final judgment partitioning the community property. *See* **Moody v. Moody,** 95-0142 (La. App. 1 Cir. 10/6/95); 662 So.2d 879, *writ denied*, 96-0124 (La. 3/8/96); 669 So.2d 398.

Appellant alleges that the trial judge committed seven errors in ordering the transfer of funds. However, after thoroughly reviewing the entire record in this matter, we are convinced that the trial judge's findings of fact and conclusions of law are correct. Therefore, we affirm the judgment of the trial court in its entirety. All costs of this appeal are assessed to appellant, Lamon Moody, Jr.

AFFIRMED.

APPENDIX D

NINETEENTH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

EVES THIBODEAUX MOODY — NUMBER: 337,624

VERSUS — DIVISION: "A"

LAMON L. MOODY, JR.

JUDGMENT

(Filed Aug. 27, 1996)

This cause came up for hearing on Monday, August 26, 1996, having been previously assigned for hearing on Monday, August 19, 1996, and continued by request of counsel for the New Dyer & Moody Profit Sharing Plan & Trust, on the petition and a Rule to Show Cause why a Writ of Mandamus should not issue herein to the Hancock Bank (Successor to American Bank & Trust Company). Present: Robert L. Kleinpeter of the firm of Kleinpeter & Kleinpeter, attorneys for Eves Thibodeaux Moody; Gregory A. Pletsch, attorney for Hancock Bank; and, Durward D. Casteel, attorney for the New Dyer & Moody, Inc. Profit Sharing Plan & Trust.

When after reading the pleadings, considering the documents and attachments made a part thereof, together with the entire record of these proceedings and particularly the opinion of the Court of Appeal, First Circuit, dated November 10, 1995, which is not a final judgment; the original judgment rendered herein dated July 2, 1991, together with the attached Domestic Relations Order made a part thereof, as well as the Amended Judgment

dated July 21, 1994, in conformity with the opinion of the Court of Appeal, First Circuit, dated July 2, 1993, reported at 622 So.2d 1381; the court being of the opinion that the Domestic Relations Order signed herein is a valid and Qualified Domestic Relations Order; the court being of the opinion that the provisions of the opinion and judgments referred to are final and that Eves Thibodeaux Moody is entitled to the relief requested, that there being no other remedy available, and that this matter has been delayed too long, the law and evidence being in favor thereof:

IT IS ORDERED, ADJUDGED AND DECREED that the Dilatory Exceptions of Prematurity and Improper Use of Summary Procedure file on behalf of the New Dyer & Moody, Inc. Profit Sharing Plan & Trust be dismissed and they are accordingly denied with prejudice.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the alternative Writ of Mandamus issued herein be made peremptory and Hancock Bank is hereby ordered and directed to transfer all funds held by Hancock Bank, either in its corporate capacity or as Trustee, and more specifically those items listed in the opinion and judgments referred to in the above entitled and numbered cause including the Judgment of July 2, 1991; the Amended Judgment dated July 21, 1994, and the final opinion of the Court of Appeal, First Circuit, dated December 12, 1995, to an account designated by Eves Thibodeaux Moody or to pay directly to Eves Thibodeaux Moody the funds allotted to her in those judgments and/or opinions.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the division of accrued interest referred to in the Judgments set forth herein, be effective as of the date of dissolution of the community of acquets and gains between the parties.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that by agreement by counsel for all parties, that a typographical error in the Account No. 82-7785-8 and is hereby corrected to reflect that the proper number is Account No. 82-7785-6.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all costs of these proceedings be taxed against Lamon L. Moody, Jr.

JUDGMENT RENDERED in Open Court on the 26th day of August, 1996.

JUDGMENT READ AND SIGNED in Chambers of the 28th day of August, 1996.

/s/ Bob Downing
JUDGE, 19TH JUDICIAL
DISTRICT COURT

I hereby certify that on this day a notice of the above judgement was mailed by me, with sufficient postage affixed,
to: Robert Kleinpeter;
A. Bridger Eglin;
Lamon Moody, Jr.;
Durward Casteel;
Doug Welborn;

Done and Signed on Aug. 28, 1996
/s/ Mary L. Loupe
Deputy Clerk of the Court